

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ALYSSA WILSON and JOHN WILSON, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

PEOPLECONNECT, INC., a Delaware
Corporation,

Defendant.

Case No. 2:22-CV-00016-MJP

JOINT MOTION AND ~~PROPOSED~~
ORDER TO EXTEND DEADLINES

NOTE ON MOTION CALENDAR:
March 13, 2024

Pursuant to Fed. R. Civ. P. 26, Plaintiffs Izzo and Wilson and Defendant PeopleConnect, Inc., by and through their undersigned attorneys, respectfully request the Court to extend the deadline for the Parties to complete arbitration-related discovery to April 26, 2024, and extend the deadline for Defendant to answer or otherwise respond to May 31, 2024.

1. On September 26, 2023, the Court ordered the Parties to complete arbitration-related discovery by December 26, 2023. (Dkt. 33). The Court also set a deadline for Defendant to answer or otherwise respond by January 25, 2024. (*Id.*)

1 2. On November 7, 2023, the Court granted the Parties' joint motion to extend the
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3 deadline to complete arbitration-related discovery by February 26, 2024, and for Defendant to
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5 answer or otherwise respond by March 27, 2024. (Dkt. 35).
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7 3. On February 22, 2024, the Parties filed a Joint Motion and Proposed Order to
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9 Extend Deadlines. (Dkt 38). Prior to the filing of this motion, Defendant's 30(b)(6) deposition and
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11 Plaintiff Izzo's deposition were taken. Defendant, however, has been unable to take the deposition
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13 of Plaintiff Wilson or Plaintiffs' counsel, as detailed below, despite both depositions having been
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15 timely noticed.
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17 4. On February 26, 2024, the Court denied the Parties' Joint Motion and Proposed
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19 Order to Extend Deadlines without prejudice. (Dkt. 39). The Court indicated that the Parties'
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21 motion lacked sufficient detail regarding Plaintiff Wilson's medical condition and its impact on
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23 the scheduling of his deposition, as well as the delay in completing the depositions of Plaintiffs'
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25 counsel. (*Id.*).
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27 5. Plaintiff Wilson was scheduled to be deposed on Tuesday, February 6 in Columbus,
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29 Ohio.
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31 6. On the afternoon of Friday, February 2, 2024, Plaintiff Wilson's counsel informed
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33 Defendant's counsel that, earlier in the day, Plaintiff Wilson's doctor had identified a serious
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35 health issue that required further consultation and potential treatment. *See* Declaration of Samuel
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37 J. Strauss, ¶5. As a result, Plaintiff Wilson had various medical appointments scheduled the
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39 following week, including on February 6, to discuss his diagnosis with his medical team. *Id.*
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41 Should the Court require additional details about Mr. Wilson's health issue and medical
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43 appointments, Plaintiffs' counsel will provide that for *in camera* review given the sensitive nature
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45 of the information. *Id.*

7. Although Defendant's counsel was prepared to extend their trip to Columbus to take Mr. Wilson's deposition on February 7, 2024, on February 6, 2024, while the parties were in Columbus, Ohio, his counsel informed Defendant's counsel that he was not able to be deposed at all that week. Strauss Decl., ¶¶ 6-8.

8. On February 28, 2024, the Parties conferred regarding discovery in this case. Defendant's counsel asked for Mr. Wilson's availability to sit for a deposition in the month of March and also dates for counsels' depositions. On March 4, 2024, Plaintiffs' counsel informed Defendant's counsel that Plaintiff Wilson and his counsel were not available under the week of April 3-5, 2024, at the earliest. The parties have agreed to take Plaintiff Wilson's deposition on April 3, 2024.

9. Regarding the production of documents by and depositions of Plaintiffs' counsel, the Parties agree that those subpoenas should be held in abeyance pending completion of Mr. Wilson's deposition. By way of background, on January 25, 2024, Defendant served subpoenas for production of documents and for deposition on two of Plaintiffs' counsel. Defendant served those subpoenas based on the Ninth Circuit's holding in *Knapke v. PeopleConnect, Inc.*, that PeopleConnect is entitled to discovery on the "contours of" and "limits of" Plaintiffs' counsel's authority to act on Plaintiffs' behalf and that attorney-client privilege may be waived if the client "simultaneously den[ies] an agency relationship regarding the arbitration agreement" while seeking to shield "communications that would bear directly on that issue." 38 F.4th 824, 834 (9th Cir. 2022). Defendant also served those subpoenas based on this Court's order in *Boshears*, where this Court ordered counsel in that case to produce an email chain that plaintiff claimed was privileged based upon the Ninth Circuit's decision in *Knapke. Boshears v. PeopleConnect*, No. C21-1222, Dkt. 79 at 3 (Dec. 18, 2023).

1 10. Plaintiffs have objected to the subpoenas for production of documents based
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3 primarily on claims of attorney-client privilege and, during subsequent meetings regarding the
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5 subpoenas, have indicated that they also object to the deposition of their attorneys on the same
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7 basis. They have informed Defendant they intend to move to quash the subpoenas.

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9 11. Defendant believes it cannot determine whether it will need to depose Plaintiffs'
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11 counsel and, to the extent it does, the specifics of the questions until after Plaintiff Wilson has been
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13 deposed. Indeed, it is possible Plaintiff Wilson has sufficient knowledge of his attorneys' activity
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15 on Classmates.com and related issues that third-party discovery from his counsel may prove to be
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17 unnecessary. For example, in *Boshears v. PeopleConnect, Inc.* (No. 2:21-cv-01222), Defendant
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19 concluded that Plaintiff Boshears' testimony was sufficiently comprehensive to obviate the need
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21 for any additional discovery from his attorneys.

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23 12. Based on that experience, the Parties agreed as part of their meet and confer efforts
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25 to hold the third-party subpoenas in abeyance to allow Defendant to appropriately define the scope
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27 of its third-party discovery efforts. This also would avoid having the Parties prematurely present
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29 and adjudicate a motion to quash to the Court.

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31 13. Fed. R. Civ. P. 26 provides the Court with the discretion to set the schedule for
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33 discovery.

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35 14. The Parties thus jointly request that this Court extend the deadlines in its existing
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37 scheduling order such that the deadline for the Parties to complete arbitration-related discovery
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39 would be extended to April 26, 2024, and the deadline for Defendant to answer or otherwise
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41 respond would be extended to May 31, 2024. That would allow the deposition of Plaintiff Wilson
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43 to go forward on Wednesday, April 3, 2024, negotiate the scope of the subpoenas directed at
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45 Plaintiffs' counsel, to the extent those negotiations are not successful present a submission

pursuant to Local Rule 37, and take any depositions of Plaintiffs' counsel during the week of April 22, 2024.

WHEREFORE, Plaintiffs and Defendant respectfully request the Court to extend the deadline for the Parties to complete arbitration-related discovery to April 26, 2024, and the deadline for Defendant to answer or otherwise respond to May 31, 2024.

DATED this 13th day of March, 2024.

PEOPLECONNECT, INC.

ALYSSA IZZO AND JOHN WILSON

/s/ Michael Rosenberger

/s/ Samuel J. Strauss

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Attorneys for Defendant PeopleConnect, Inc.

1 IT IS SO ORDERED.
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3 DATED: March 14, 2024
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8 Marsha J. Pechman
9 United States Senior District Judge
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